

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

AMENDED IN ASSEMBLY MARCH 12, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 13**

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**Introduced by Assembly Member Salas  
(Principal coauthor: Assembly Member Huffman)  
(Coauthor: Assembly Member Caballero)**

December 1, 2008

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An act to add Division 29 (commencing with Section 80500) to the Water Code, relating to the Sacramento-San Joaquin Delta.

### LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Salas. Sacramento-San Joaquin Delta Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would establish the Sacramento-San Joaquin Delta Conservancy to ~~provide policy oversight, foster implementation of, and manage funds to implement the restoration and management of habitat and lands~~ *restore, maintain, and enhance ecosystems, including habitats, wildlife corridors, native species, and open space*, in the Sacramento-San Joaquin Delta and Suisun Marsh, and to develop and implement projects to address the economic viability of the Delta region, consistent with a comprehensive Delta sustainability program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Division 29 (commencing with Section 80500) is added to the Water Code, to read:

DIVISION 29. SACRAMENTO-SAN JOAQUIN DELTA  
CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

80500. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Conservancy Act.

80501. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta is a unique and valued area, warranting recognition and special legal status from the State of California. The Delta is a place of natural beauty, with historic towns, productive farming, and close-knit communities. The Delta is an integral part of the largest estuary on the West Coast of the Americas, connecting rivers originating in the Sierra Nevada to the Pacific Ocean. The Delta is also an indispensable part of the Pacific Flyway. These values should be preserved and protected.

(b) Numerous federal, state, and local agencies have overlapping and conflicting legal responsibility and authority to protect the Delta, but no single agency has the authority for restoration of the Delta ecosystem. In recent years, the Department of Fish and Game has reported substantial declines in the Delta's ecosystem health. Several agencies, including the Department of Water Resources, have participated in interagency efforts to address the Delta ecosystem crisis, but recent years have seen interagency conflict over the manner in which to best protect the Delta ecosystem.

(c) In 2008, the Delta Vision Blue Ribbon Task Force, created pursuant to Executive Order S-17-06, adopted a comprehensive, strategic plan for the Delta. The strategic plan states that a healthy Delta ecosystem and sustainable Delta water supply are of coequal importance.

(d) The Delta Vision Blue Ribbon Task Force recommends the statutory creation of a Delta conservancy to implement ecosystem restoration projects to achieve the ecosystem goals of the strategic plan or a subsequent comprehensive plan for Delta sustainability.

1 80502. For the purposes of this division, the following terms  
2 have the following meanings:

3 (a) “Bay Delta Conservation Plan” means the plan prepared  
4 pursuant to the Planning Agreement regarding the Bay Delta  
5 Conservation Plan, dated October 6, 2006.

6 (b) “Blue Ribbon Task Force” means the Delta Vision Blue  
7 Ribbon Task Force created by Executive Order S-17-06.

8 (c) “Board” means the governing board of the Sacramento-San  
9 Joaquin Delta Conservancy.

10 (d) “Comprehensive Delta sustainability program” or “program”  
11 means a comprehensive Delta sustainability program intended to  
12 restore and manage habitat and restore ecosystem function in the  
13 Sacramento-San Joaquin Delta and Suisun Marsh and to preserve  
14 the economic viability of the Delta consistent with the plan adopted  
15 by the Delta Ecosystem and Water Council pursuant to Section  
16 80505.

17 (e) “Conservancy” means the Sacramento-San Joaquin Delta  
18 Conservancy.

19 (f) “Delta” means the Sacramento-San Joaquin Delta as defined  
20 in Section 12220.

21 (g) “Delta counties” means the Counties of Contra Costa,  
22 Sacramento, San Joaquin, Solano, and Yolo.

23 (h) “Habitat conservation plan” means a plan prepared under  
24 Chapter 10 (commencing with Section 2800) of Division 3 of the  
25 Fish and Game Code, or a plan prepared under Section 10 of the  
26 federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

27 (i) “Local public agency” means a city, county, district, or joint  
28 powers authority.

29 (j) “Nonprofit organization” means a private, nonprofit  
30 organization that qualifies for exempt status under Section  
31 501(c)(3) of Title 26 of the United States Code, and that has among  
32 its principal charitable purposes preservation of land for scientific,  
33 recreational, scenic, or open-space opportunities; protection of the  
34 natural environment, or preservation or enhancement of wildlife;  
35 preservation of cultural and historical resources; or, efforts to  
36 provide for the enjoyment of public lands.

37 (k) “Regional conservancy” means a conservancy within the  
38 Natural Resources Agency.

39 (l) “Suisun Marsh” means the Suisun Marsh as defined in  
40 Section 29101 of the Public Resources Code.

## 1 CHAPTER 2. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

2  
3 80505. (a) There is in the Natural Resources Agency the  
4 Sacramento-San Joaquin Delta Conservancy, which is created as  
5 a state agency for the purposes of, and to carry out the authority  
6 given to it under, this division.

7 (b) The conservancy shall, as its primary purpose, ~~provide policy~~  
8 ~~oversight, foster implementation of, and manage funds to~~  
9 ~~implement, the restoration and management of habitats and lands~~  
10 ~~for the sustainability of native species biodiversity and ecosystem~~  
11 ~~function~~ *restore, maintain, and enhance Delta ecosystems,*  
12 *including habitats, wildlife corridors, native species, and open*  
13 *space, to ensure their viability, diversity, and sustainability,*  
14 pursuant to the comprehensive Delta sustainability plan adopted  
15 by the Delta Ecosystem and Water Council. Consistent with that  
16 plan, the conservancy shall also develop and implement projects  
17 to address the economic viability of the Delta region.

18 80506. (a) The board shall consist of 11 voting members as  
19 follows:

20 (1) The Secretary of the Natural Resources Agency, or his or  
21 her designee.

22 (2) The Director of Finance, or his or her designee.

23 (3) Five members, each of whom shall represent one of the Delta  
24 counties, selected by the board of supervisors of each county. An  
25 alternate shall be selected for each of these members by the board  
26 of supervisors of each Delta county.

27 (4) Two public members appointed by the Governor.

28 (5) One public member appointed by the Speaker of the  
29 Assembly.

30 (6) One public member appointed by the Senate Committee on  
31 Rules.

32 (b) The board shall also include the following ex officio,  
33 nonvoting members:

34 (1) The Director of Fish and Game, or his or her designee.

35 (2) The Chair of the Delta Protection Commission, or his or her  
36 designee.

37 (3) An executive officer of the San Francisco Bay Conservation  
38 and Development Commission, or his or her designee.

39 (c) The conservancy shall request nonvoting participation by  
40 appropriate federal agencies.

(d) Each Delta member, as described in paragraph (3) of subdivision (a), shall serve a five-year term, except for those initially selected. The initial members shall select from among themselves one member to serve one year, one member to serve two years, one member to serve three years, one member to serve four years, and one member to serve five years. The Delta members may be reappointed at the end of their term and any vacancy during a term of office may be filled by the appointing entity.

(e) Each public member shall be appointed for a four-year term, except that one of the public members initially appointed by the Governor shall serve a one-year term, one of the public members initially appointed by the Speaker of the Assembly shall serve a two-year term, and one of the public members initially appointed by the President Pro Tempore of the Senate shall serve a three-year term. Public members may be reappointed at the end of their term and any vacancy during a term of office may be filled by the appointing entity.

(f) The public members shall be selected to reflect ~~either the diversity of interests in the Delta or~~ statewide interests as they relate to the authorities and mission of the conservancy. Public members shall be compensated for attendance at regular meetings of the board at the rate of one hundred dollars (\$100) per day and shall be reimbursed for actual reasonable and necessary expenses for attending meetings and carrying out the duties of their office.

(g) The members shall elect annually from among them a chair and vice chair and other officers as necessary.

(h) A majority of the members shall constitute a quorum for the transaction of the business of the board, and a majority vote of the members present at a meeting where a quorum exists shall be binding with respect to all matters acted on by the board.

(i) The board shall ~~appoint~~ *determine the qualifications of, and appoint, an executive officer of the conservancy and employ, who shall serve at the pleasure of the board. The executive officer shall appoint* other staff as necessary to execute the powers and functions provided for under this division.

(j) The board may rent or own real property and equipment pursuant to applicable statutes and regulations.

(k) The board may enter into contracts with private entities and public agencies to procure consulting and other services to achieve the purposes of this division.

1 80507. The board shall establish and coordinate the  
2 conservancy's activities in consultation with an advisory  
3 committee. The advisory committee shall include, but shall not be  
4 limited to, one representative of each of the following:

- 5 (a) The Department of Water Resources.
- 6 (b) The State Coastal Conservancy.
- 7 (c) The State Water Resources Control Board.
- 8 (d) The Suisun Resource Conservation District.
- 9 (e) The Yolo Basin Foundation.
- 10 (f) Each reclamation district with responsibility for levees  
11 located within the Delta.

12  
13 CHAPTER 3. POWERS, DUTIES, AND LIMITATIONS  
14

15 80510. (a) Except as provided in subdivision (b), the  
16 jurisdiction and activities of the conservancy are limited to the  
17 Delta and Suisun Marsh.

18 (b) The conservancy may take or fund an action outside of the  
19 Delta and Suisun Marsh if the board makes all of the following  
20 findings:

21 (1) The project is consistent with the ecosystem goals of the  
22 comprehensive Delta sustainability program.

23 (2) The project will result in measurable benefits to the Delta  
24 ecosystem.

25 (3) The conservancy has given notice to, and will coordinate  
26 with, the respective local jurisdictions, and, if applicable, regional  
27 conservancies where the project is located.

28 (c) This division does not limit, expand, or otherwise affect the  
29 authorities and responsibilities of any local public agency, state  
30 department or agency, or agency of the United States, except that  
31 the conservancy has the authority to review and approve ecosystem  
32 projects located within the boundaries of the Delta proposed for  
33 implementation by any other state agency, to determine consistency  
34 with the comprehensive Delta sustainability program. The  
35 conservancy shall not assume responsibility for any activity of any  
36 other state agency, unless that state agency is authorized by law,  
37 and offers, to transfer the responsibility to the conservancy.

38 (d) *(1) The conservancy has no power to regulate land use or*  
39 *any activities on land, except as the owner of an interest in the*  
40 *land; activities on land, except as provided in paragraph (2).*

(2) *This section does not limit the authority of the conservancy, as the owner of an interest in land, or pursuant to an agreement with, or a license or grant of management authority from, the owner of an interest in the land, or as specified in an agreement with a person or entity to which the conservancy has transferred an interest in land, or which has accepted a grant to manage an interest in land for the purposes of this division and to exercise all rights incident to that ownership or conferred upon the conservancy by an agreement.* A determination by the conservancy, pursuant to this ~~subdivision~~ *paragraph*, that the management of an interest in land is consistent with the purposes of this division may be appealed to the Delta Ecosystem and Water Council. Upon appeal, the Delta Ecosystem and Water Council shall have final authority to make that determination.

80511. (a) The conservancy shall implement habitat restoration and management projects to achieve the ecosystem goals of the comprehensive Delta sustainability program.

(b) The conservancy shall cooperate, coordinate, and consult, as necessary or appropriate, with any other agency or department of the state, local public agency, or agency of the United States having regulatory or other responsibility related to the authorities and mission of the conservancy.

(c) The conservancy shall take whatever actions are reasonably necessary and incidental to the management of lands under its ownership or control.

(d) The conservancy shall improve, restore, and enhance lands under its ownership or control consistent with the purpose for which the land was acquired.

(e) The conservancy shall coordinate or assist in the implementation of local, state, and federal ecosystem projects, including the Bay Delta Conservation Plan and other overlapping or adjacent habitat conservation plans.

(f) (1) The conservancy shall develop and implement projects, consistent with the comprehensive Delta sustainability program, to maintain the economic and social viability of the Delta region.

(2) Projects developed and implemented pursuant to this subdivision may include, but shall not be limited to, projects that do one or more of the following:

(A) Provide recreational opportunities and appropriate public access to natural resources in the Delta.

1 (B) Protect the viability of agriculture and Delta communities  
2 in the Delta, including physical and business infrastructure.

3 (C) Promote wildlife-friendly agriculture.

4 (D) Promote agricultural practices that reduce greenhouse gas  
5 emissions and increase carbon sequestration.

6 (E) Support the growth of agricultural tourism.

7 (F) Protect the viability of the Delta's legacy communities.

8 (G) Address the impacts from the implementation of the  
9 program.

10 (g) The conservancy shall coordinate with appropriate scientific  
11 entities to conduct necessary scientific studies.

12 (h) The conservancy shall assume responsibility, if offered, for  
13 local, state, federal, and private lands, or the management of those  
14 lands, within the Delta or Suisun Marsh.

15 80512. (a) In order to carry out the duties and responsibilities  
16 of this division, the conservancy may do all of the following:

17 (1) Accept, acquire, and hold real property, and interests in real  
18 property, from willing sellers or transferors in the name of, and  
19 on behalf of, the state for the purposes of implementing the  
20 comprehensive Delta sustainability program.

21 (2) Make grants or loans to local public agencies, nonprofit  
22 organizations, state agencies, and federal agencies, including grants  
23 and loans for the acquisition of real property, or interests in real  
24 property, from willing sellers or transferors.

25 (3) Use funds to directly undertake, or contract with public  
26 agencies and nonprofit organizations to undertake, appropriate  
27 actions identified in the program.

28 (4) Enter into agreements and intergovernmental agreements  
29 with public agencies, nonprofit organizations, and private entities  
30 for the implementation, including construction and management,  
31 of appropriate projects identified in the program.

32 (5) Acquire and hold any permits or other authorizations  
33 necessary to carry out its responsibilities.

34 (6) Implement projects or grant funds to address flood issues  
35 associated with conservancy projects.

36 (b) To the extent practicable, the conservancy shall use  
37 easements and cooperative agreements to achieve ecosystem  
38 restoration goals.

39 (c) The conservancy does not have the power of eminent  
40 domain.



1     80513. ~~The~~ *On or before December 1 of each year, the board*  
2 shall report to the Legislature and Governor ~~annually~~ on the  
3 progress towards implementation of the measures identified in the  
4 comprehensive Delta sustainability program intended to restore  
5 and manage habitat in the Delta and Suisun Marsh.

6     80514. (a) The conservancy's expenses may be paid from the  
7 conservancy's operating budget, if one is provided for, and other  
8 funding sources available to the conservancy. Up to 5 percent of  
9 any funds appropriated by the Legislature may be expended to pay  
10 the administrative costs of the conservancy's expenses. Any funds  
11 appropriated by the Legislature to the conservancy may be used  
12 for grants or direct expenditure. The conservancy shall comply  
13 with all applicable provisions of law related to the appropriated  
14 funds in administering any funds appropriated by the Legislature.

15     (b) The conservancy also may accept both of the following:

16     (1) Funds provided by participants in the Bay Delta  
17 Conservation Plan or other habitat conservation plans for  
18 implementation of those plans, to be managed consistent with those  
19 plans.

20     (2) Gifts, donations, bequests, devises, subventions, grants,  
21 rents, royalties, and other funds from public and private funds.